IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

ST.Rev..No. 314 of 2007

TA.330/2004 of S.T.A.T., ADDL.BENCH-II, ERNAKULAM
.....

REVISION PETITIONER/RESPONDENT/REVENUE:

STATE OF KERALA,
REP. BY JOINT COMMISSIONER (LAW) IN-CHARGE,
COMMERCIAL TAXES,
ERNAKULAM.

BY SR. GOVERNMENT PLEADER SHRI MUHAMMED RAFIQ.

RESPONDENT/APPELLANT/ASSESSEE:

M/S. LIZ WOOD PRODUCTS,
XIV/544, CHULLIKKAL,
KOCHI - 682 002.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L. DATTU, CJ. & K. M. JOSEPH, J.

C.M.APPL. NO.1083 OF 2007

&

S.T.REV. NO. 314 OF 2007

Dated this the 28th November, 2007

ORDER

H.L. DATTU, CJ.

Aggrieved by the orders passed by the Sales Tax Appellate Tribunal, Addl. Bench-II, Ernakulam in T.A. No.330/04, the Revenue has filed this S.T. Revision Case.

2. In filing the Revision Case, there is a delay of nearly 955 days. To condone the delay, the Revenue has filed an application along with an Affidavit.

3. In the Affidavit so filed, they have stated as under:

> "3. The assessing Officer had sent the proposal for filing an appeal along with the Order of the STAT to the Office of the Commissioner of Commercial Taxes only on 7.3.2007. The Office of the Commissioner of Commercial Taxes forwarded the proposal to file an appeal to the Office of the Advocate General on 21.5.2007. The Office of the Advocate General examined the scope of filing the revision and the revision was filed on 3.10.2007. It is respectfully submitted that the delay occurred due to the files getting misplaced at the Office of the Deputy Commissioner, Mattancherry. When the files were received, the then incumbent in the Office of the Deputy Commissioner, Mattancherry had immediately sent the files for approval to the Office of the Commissioner of Commercial Taxes. Subsequently, the Office of the Commissioner of Commercial Taxes had examined the files and submitted the same to the Office of the Advocate General through the Office of the Joint Commissioner of Law on 2.7.2007. Immediately thereafter, the files were handed over to the Government Pleader to examine the scope of revision and on his opinion that the case is one fit for revision, the same was prepared and filed on 3.10.2007. It is respectfully submitted that the delay in

filing the above revision was only due to the circumstances explained above and is not in any manner wilful or deliberate. It is humbly prayed that in the interest of justice that this Honourable Court may be pleased to condone the delay of 955 days in filing the above ST Revision and accept the same to the files of this Honourable Court."

4. A perusal of the Affidavit will only show that though the orders were passed by the Sales Tax Appellate Tribunal, Addl. Bench-II, Ernakulam in the month of July, 2004, for the first time the papers were sent to the Office of the Commissioner of Commercial Taxes only on 7.3.2007. The Commissioner of Commercial Taxes forwarded the papers to the Office of the Advocate General for filing the Revision Case on 21.5.2007. The delay between 27.7.2004 and 7.3.2007 is not explained by the petitioner.

5. Having gone through the Affidavit filed for condonation of delay, we are of the opinion that the explanation offered by the petitioner in approaching this Court belatedly, is not at all satisfactory. Therefore, the application for condonation of delay requires to be rejected and it is rejected. Consequently, the St. Rev. Case also is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

kbk.